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SIPDIS

DEPT. PASS TO USTR BENNETT HARMON

E.O. 12958: N/A

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SUBJECT: GOE LETTERS TO SECRETARY RICE AND USTR PORTMAN  
REGARDING ECUADOR-EU BANANA TARIFF DISPUTE

We received, December 7, two original letters signed by the Ministers of Foreign Relations, Foreign Trade and Agriculture, addressed to Secretary of State Rice and USTR Portman. Copies have been faxed to WHA/AND and USTR and the originals are being forwarded by mail. The text of both letters is the same, and states as follows:

Brussels, 30 November 2005

On Tuesday 29 of November 2005, the Competitiveness Council finally reached an agreement on the Commission's proposal on bananas. Ecuador believes that the proposal of 176 Euros/T tariff for Latin American bananas and a TRQ of 775.000 T at 0 duty for ACP suppliers, does not fulfil (sic) the European Union's obligation of "at least maintaining total market access for MFN suppliers."

As a result, upon entry into force of a new tariff regime for imports of bananas, the GATT article 1.1 waiver shall cease to apply. Consequently by December 31st 2005 both the GATT article XIII and article 1.1 waivers are no longer in force, obliging the EU to apply a single tariff to all imports.

Furthermore, in 2001 Ecuador, the United States and the European Union signed two Understandings to settle the long-standing banana dispute. Those Understandings establish that no later than 1 January 2006 a tariff only regime had to be introduced, which by definition should not consider special treatments such as the proposed TRQ for the ACP suppliers.

The Commission's proposal then violates the Understandings. Such violation cannot be covered simply by a new GATT article XIII waiver but requires a specific agreement of the Parties to the Understandings.

Ecuador will make use of all the legal instruments available within the WTO to preserve its rights, as it has done successfully in the past. Nevertheless, Ecuador hopes that the EU will be willing to engage into negotiations in order to reach a mutually satisfactory solution.

We avail ourselves of this opportunity to renew to you the assurances of our highest considerations.

signed by:

Francisco Carrion-Mena, Minister of Foreign Relations  
Jorge Illingworth, Minister of Foreign Trade  
Pablo Rizzo, Minister of Agriculture  
JEWELL